

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. M.P.E.P. § 803.

Applicants respectfully traverse the requirement for restriction on the grounds that the Office has not provided adequate reasons and/or examples to support a conclusion of patentable distinctness between the identifying groups.

The Office has characterized the inventions of Groups I-III as “unrelated”. The Office suggests that the inventions of Groups I-III “have different functions and modes of operation, for instance, the prior art search for the invention Group III is distinct from the invention of Group II”.

However, Applicants respectfully submit that stating that the inventions of Groups I-III “have different functions and modes of operation” merely expresses a conclusion, and is not itself a reason or evidence. Furthermore, M.P.E.P. § 806.04(A) describes unrelated inventions as, for example, “an article of apparel such as a shoe, and a locomotive bearing”, or “a process of painting a house and a processing of boring a well.” Thus, unrelated inventions, as defined by the M.P.E.P., are inventions which are directed to *completely* different technical fields, and have no reasonable relationship with each other. Applicants make no statement regarding the patentable distinctness of the inventions of Groups I-III, but note that each of the claimed methods recite “specifically potentiating an N-type Ca^{2+} channel activity”. Applicants therefore respectfully submit that the inventions of Groups I-III do not reasonably meet the standard of “unrelatedness” of M.P.E.P. § 806.04(A). Accordingly, Applicants respectfully submit that the requirement for restriction is improper, and request that it be withdrawn.

Furthermore, Applicants respectfully submit that searching all of the claims would not present a burden on the Office. For example, the inventions of Groups I and II are classified

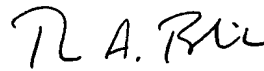
in the same class and subclass. Accordingly, Applicants respectfully submit that the requirement for restriction is improper, and request that it be withdrawn.

With respect to the elected species, Applicants respectfully submit that should the elected species be found allowable, the Office should expand its search to the non-elected species.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully submitted,

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